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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2009-280

12
13 **KRISTI LAURA HUTTO, R.N.**
2029 Felspar Street
14 San Diego, California 92109

DEFAULT DECISION AND ORDER

15 Registered Nurse License No. 637926

[Gov. Code, §11520]

16 Respondent.
17
18

19 **FINDINGS OF FACT**

20 1. On or about April 28, 2009, Complainant Ruth Ann Terry, M.P.H., R.N., in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs, filed Accusation No. 2009-280 against Kristi Laura Hutto, RN (Respondent)
23 before the Board of Registered Nursing.

24 2. On or about May 28, 2004, the Board of Registered Nursing (Board) issued registered
25 nurse license No. 637926 to Respondent. The registered nurse license was in full force and effect
26 at all times relevant to the charges brought herein and will expire on October 31, 2009, unless
27 renewed.

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1 3. On or about May 28, 2009, Rosita Donovan, an employee of the Department of
2 Justice, served by Certified and First Class Mail a copy of Accusation No. 2009-280, Statement to
3 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
4 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is: 2029
5 Felspar Street, San Diego, CA 92109.

6 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c).

9 On or about June 18, 2009, the aforementioned documents were returned by the U.S. Postal
10 Service marked "Unclaimed."

11 5. Government Code section 11506 states, in pertinent part:

12 “(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
15 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.”

16 Respondent failed to file a Notice of Defense within 15 days after service upon her of the
17 Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2009-
18 280.

19 6. California Government Code section 11520 states, in pertinent part:

20 “(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
21 agency may take action based upon the respondent's express admissions or upon other evidence
22 and affidavits may be used as evidence without any notice to respondent.”

23 7. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 evidence on file herein, finds that the allegations in Accusation No. 2009-280 are true.

26 8. The total costs for investigation and enforcement in connection with the Accusation
27 are \$3,018.00 as of June 29, 2009? 6/1 1:11

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Kristi Laura Hutto, RN has subjected her registered nurse No. 637926 to discipline.

2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to revoke Respondent's registered nurse license based upon the following violations alleged in the Accusation:

a. Business and Professions Code section 490 and 2761(f) - conviction of a crime involving consumption of alcohol on August 16, 2006 in *People v. Kristi Hutto*, San Diego Superior Court Case NO. M980150, that is substantially related to her qualifications, functions and duties as a registered nurse;

b. Business and Professions Code section 2762(b) – unprofessional conduct in the use of alcoholic beverages to an extent or in a manner that is dangerous or injurious to herself or the public;

c. Business and Professions Code section 2762(c) – unprofessional conduct in that Respondent was convicted on August 16, 2006 of driving under the influence of alcohol;

d. Business and Professions Code section 2761(a)(4) – unprofessional conduct in that Respondent was disciplined by the Massachusetts Board of Registered Nursing in April, 2008;

e. Business and Professions Code section 2762(e) – unprofessional conduct in the falsification or the making of grossly incorrect, inconsistent or unintelligible entries in hospital records while employed as a registered nurse at Sharp Memorial Hospital in San Diego;

f. Business and Professions Code section 2762(a) – obtained or possessed controlled substances in violation of Code section 4060 and Health and Safety Code section 11173(a) while employed as a registered nurse by American Mobile Healthcare and on duty at Massachusetts General Hospital in Boston, Massachusetts;

g. Business and Professions Code section 2762(a) – obtained or possessed controlled substances in violation of Health and Safety Code 11173(a) while on duty as a registered nurse at Sharp Memorial Hospital in San Diego;

1 h. Business and Professions Code section 2762(a) - obtained or possessed controlled
2 substances in violation of Code section 4060 and Health and Safety Code section 11173(a) while
3 employed as a registry nurse by Health Source Global Staffing, San Francisco, California and
4 assigned to work at UMass Memorial Medical Center in Worcester, Massachusetts;

5 i. Business and Professions Code section 2762(a) - obtained or possessed controlled
6 substances while employed as a registry nurse by MedStaff Healthcare Solutions and assigned to
7 work at Long Beach Memorial Hospital;

8 j. Business and Professions Code section 2762(a) - arrested for possession of controlled
9 substances in violation of Health and Safety Code section 11350 while employed as a registry
10 nurse by HRN Services, Inc. and assigned to work at UCLA Medical Center, Los Angeles,
11 California.

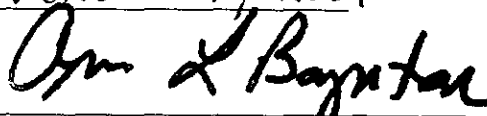
12 ORDER

13 IT IS SO ORDERED that registered nurse license No. 637926, heretofore issued to
14 Respondent Kristi Laura Hutto, R.N., is revoked.

15 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
16 written motion requesting that the Decision be vacated and stating the grounds relied on within
17 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
18 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

19 This Decision shall become effective on December 10, 2009.

20 It is so ORDERED November 10, 2009

21 
22 FOR THE BOARD OF REGISTERED NURSING
23 DEPARTMENT OF CONSUMER AFFAIRS

24 80374908.DOC
DOJ docket number:SD2008802562

25 Attachment: Exhibit A- Accusation No.2009-280
26
27
28

Exhibit A

Accusation No. 2009-280

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
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9 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2009-280

14 **KRISTI LAURA HUTTO**
2029 Felspar Street
15 San Diego, California 92109

A C C U S A T I O N

16 Registered Nurse License No. 637926

17 Respondent.

18
19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1 Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board") Department of Consumer
23 Affairs.

24 **Registered Nurse License**

25 2. On or about May 28, 2004, the Board issued Registered Nurse License
26 Number 637926 to Kristi Laura Hutto ("Respondent"). The registered nurse license will expire
27 on October 31, 2009, unless renewed.

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JURISDICTION

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS AND REGULATIONS

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

...

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

....

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as

1 defined in Division 10 (commencing with Section 11000) of the Health and
2 Safety Code or any dangerous drug or dangerous device as defined in Section
4022.

3 (b) Use any controlled substance as defined in Division 10 (commencing
4 with Section 11000) of the Health and Safety Code, or any dangerous drug or
5 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent
6 or in a manner dangerous or injurious to himself or herself, any other person, or
7 the public or to the extent that such use impairs his or her ability to conduct with
8 safety to the public the practice authorized by his or her license.

9 (c) Be convicted of a criminal offense involving the prescription,
10 consumption, or self-administration of any of the substances described in
11 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
12 record pertaining to, the substances described in subdivision (a) of this section, in
13 which event the record of the conviction is conclusive evidence thereof.

14 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
15 unintelligible entries in any hospital, patient, or other record pertaining to the
16 substances described in subdivision (a) of this section.

17 7. Code section 4060 states, in pertinent part:

18 No person shall possess any controlled substances, except that furnished
19 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
20 veterinarian, or naturopathic doctor....

21 8. Section 490 of the Code provides, in pertinent part, that a board may
22 suspend or revoke a license on the ground that the licensee has been convicted of a crime
23 substantially related to the qualifications, functions, or duties of the business or profession for
24 which the license was issued.

25 9. California Code of Regulations, title 16, section 1444, states:

26 A conviction or act shall be considered to be substantially related to the
27 qualifications, functions or duties of a registered nurse if to a substantial degree it
28 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or
acts shall include but not be limited to the following:

a) Assaultive or abusive conduct including, but not limited to, those violations
listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section
290 of the Penal Code.

10. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

11. California Code of Regulations section 1445(b) provides the following criteria for evaluating the rehabilitation of a licensee as follows:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

12. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

13. DRUGS

“Demerol,” a brand of meperidine hydrochloride, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (c)(17), and a dangerous drug under Code section 4022 in that under federal or state law it requires a prescription.

“Dilaudid,” a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K), and a dangerous drug under Code section 4022 in that under federal or state law it requires a prescription.

1 **"Fentanyl"** is a Schedule II controlled substance as designated by Health and
2 Safety Code section 11055, subdivision (c)(8), and a dangerous drug under Code section 4022 in
3 that under federal or state law it requires a prescription.

4 **"Hydrocodone"** is a Schedule II controlled substance as designated by Health
5 and Safety Code section 11055(b)(1)(J), and is a dangerous drug pursuant to Business and
6 Professions Code section 4022. Hydrocodone is a narcotic pain reliever.

7 **"Hydromorphone"**, sold under the brand name Dilaudid, is a Schedule II
8 controlled substance as designated by Health and Safety Code Section 11055(b)(1)(K) and is a
9 dangerous drug pursuant to Business and Professions Code section 4022. Hydromorphone is
10 used to treat moderate to severe pain.

11 **"Lorazepam"**, sold under the brand name Ativan, is a Schedule IV controlled
12 substance as designated by Health and Safety Code section 11057(d)(16), and is a dangerous
13 drug pursuant to Business and Professions Code section 4022. Lorazepam is used in the
14 treatment of anxiety disorders and for short-term (up to 4 months) relief of the symptoms of
15 anxiety.

16 **"Morphine"** is a Schedule II controlled substance as designated by Health and
17 Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug under Code section
18 4022 in that under federal or state law it requires a prescription.

19 **"Oxycodone"**, sold under the brand name OxyContin, is a Schedule II controlled
20 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and is
21 a dangerous drug pursuant to Business and Professions Code section 4022.

22 **"Restoril,"** a brand of temazepam, is a Schedule IV controlled substance, as
23 designated by Health and Safety Code section 11057, subdivision (d)(29), and a dangerous drug
24 under Code section 4022 in that under federal or state law it requires a prescription.

25 **"Valium,"** a brand of diazepam, is a Schedule IV controlled substance as
26 designated by Health and Safety Code section 11057, subdivision (d)(8), and a dangerous drug
27 under Code section 4022 in that under federal or state law it requires a prescription.

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1 "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate also known
2 as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety
3 Code section 11056, subdivision (e)(4), and 500 mg. acetaminophene per tablet, and a dangerous
4 drug under Code section 4022 in that under federal or state law it requires a prescription.

5 **FIRST CAUSE FOR DISCIPLINE**

6 (August 16, 2006 Criminal Conviction for DUI on March 27, 2006)

7 14. Respondent is subject to discipline under Code sections 490 and 2761(f)
8 for conviction of a crime involving consumption of alcohol and that is substantially related to her
9 qualifications, functions and duties of a registered nurse in that on August 16, 2006, in the
10 Superior Court, County of San Diego, California, in the matter entitled *People vs. Kristi Hutto*,
11 San Diego Superior Court Case No. M980150, Respondent was convicted following her plea of
12 no contest to violation of Vehicle Code section 23152, subdivision (a) (driving under the
13 influence of an alcoholic beverage or a drug or under their combined influence), a misdemeanor.

14 15. The circumstances that led to the conviction are that on March 27, 2006, a
15 San Diego Police Officer responded to a call regarding an automobile accident at Fanuel Street
16 and Garnet Avenue in San Diego. When the officer arrived at the scene, Respondent identified
17 herself as the driver of one of the two vehicles involved in the accident. Respondent was not
18 able to find her driver's license. As she continued looking, Respondent swayed back and forth.
19 The officer smelled alcohol on her breath. Respondent was not able to successfully complete the
20 horizontal nystagmus test or the heel-to-toe test. Before the officer administered the one leg
21 stand, and after explaining the test to Respondent, she stated she couldn't do it and said "just
22 take me." Respondent refused to answer any questions about the accident but said, "I already
23 told you I am trashed. I am going to jail. I don't want to hear these questions." At the police
24 station, she submitted to breath tests with the following results: .25% and .24%. Respondent
25 was charged with driving under the influence of alcohol (Vehicle Code section 23152(a)) and
26 driving under the influence of alcohol with a blood alcohol content of .08% or greater (Vehicle
27 Code section 23152(b)).

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1 16. On August 16, 2006, Respondent pled no content to the first charge and
2 the second charge was dismissed. She was sentenced to summary probation and ordered to serve
3 10 days in a public service work program, required to pay \$1,756 in fines and complete a First
4 Conviction Program.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct Involving Use of Alcoholic Beverages)**

7 17. Respondent is subject to discipline under Code section 2762(b) in that
8 Respondent used alcoholic beverages, to an extent or in a manner dangerous or injurious to
9 herself or the public, as more particularly set forth in paragraph 15, above.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct Regarding Conviction Involving Consumption of Alcohol)**

12 18. Respondent is subject to discipline under Code section 2762(c) in that on
13 August 16, 2006, Respondent was convicted of driving under the influence of alcohol, as more
14 particularly set forth in paragraph 15, above.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Out-of-State Discipline)**

17 19. Respondent's license is subject to discipline under Code section
18 2761(a)(4) on the grounds of unprofessional conduct in that Respondent was disciplined by the
19 Massachusetts Board of Registration in Nursing ("Massachusetts Board") in or about April,
20 2008. The circumstances are as follows.

21 20. Respondent was a registered nurse licensed by the Massachusetts Board,
22 RN License No. 255802. On or about January, 2008, Respondent signed a Consent Agreement
23 for Hold and Contingent Surrender of her registered nurse license in Case Nos. RN-06-045 and
24 RN-07-178 ("Consent Agreement") filed by the Massachusetts Board, attached hereto as **Exhibit**
25 **"A"** and incorporated herein by reference. Pursuant to the Consent Agreement, Respondent
26 agreed to apply for admission to the Massachusetts Board's Substance Abuse Rehabilitation
27 Program ("SARP") within ninety (90) days of the effective date of the Consent Agreement on
28 January 10, 2008. According to the Consent Agreement, the basis for discipline was as follows:

1 a. In or about June 2005, Respondent was employed as a registered
2 nurse by American Mobile Healthcare and working at Massachusetts General Hospital in
3 Boston, Massachusetts. At that time and on numerous occasions, Respondent failed to maintain
4 the security of controlled substances that were under her responsibility and control; unlawfully
5 obtained and possessed controlled substances; failed to document the handling, administration,
6 and destruction of controlled substances in accordance with all federal and state laws and
7 regulations, and in a manner consistent with accepted standards of nursing practice; and, diverted
8 the controlled substances for her own use.

9 b. In or about February-March 2007, Respondent was employed as a
10 registry nurse by Health Source Global Staffing in San Francisco, California and assigned to
11 work at UMass Memorial Medical Center in Worcester, Massachusetts. At that time and on
12 numerous occasions, Respondent failed to maintain the security of controlled substances that
13 were under her responsibility and control; unlawfully obtained and possessed controlled
14 substances; failed to document the handling, administration, and destruction of controlled
15 substances in accordance with all federal and state laws and regulations, and in a manner
16 consistent with accepted standards of nursing practice; and, diverted the controlled substances
17 for her own use.

18 21. According to the Consent Agreement, **Exhibit "A"**, Respondent's
19 Massachusetts RN License No. 255802 was placed on Voluntary Surrender status for a minimum
20 of three (3) years effective April 9, 2008. The basis for this discipline was that Respondent was
21 terminated or withdrawn from the Massachusetts Board's SARP program.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Falsify Patient and/or Hospital Records)**

24 22. Respondent is subject to discipline under Code section 2762(e) on the
25 grounds of unprofessional conduct in that between April 17, 2006 and May 16, 2006, while on
26 duty as a registered nurse at Sharp Memorial Hospital, San Diego, California, Respondent
27 falsified or made grossly incorrect, inconsistent, or unintelligible entries in the following hospital
28 and patient records:

1 **Patient A**

2 a. On May 2, 2006, at 0812 hours, Respondent withdrew 2 mg of
3 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
4 administration or wastage of any portion of the hydromorphone in the patient or hospital records
5 or otherwise account for the disposition of the drug.

6 **Patient B**

7 b. On May 2, 2006, at 1830 hours, Respondent withdrew 2 mg of
8 hydromorphone from the Pyxis System for this patient and charted the administration of
9 1 mg of hydromorphone in the nursing notes; however, Respondent failed to chart the wastage of
10 the remaining 1 mg of Hydromorphone in the patient or hospital record or otherwise account for
11 the disposition of the drug.

12 c. On May 2, 2006, at 2107 hours, Respondent withdrew 2 mg of
13 hydromorphone from the Pyxis System for this patient, charted the administration of
14 1 mg of hydromorphone in the nursing notes; however, Respondent failed to chart the wastage of
15 the remaining 1 mg of hydromorphone in the patient or hospital record or otherwise account for
16 the disposition of the drug.

17 d. On May 5, 2006, at 1543 hours, Respondent withdrew 2 mg of
18 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
19 administration or wastage of any portion of the hydromorphone in the patient or hospital record
20 or otherwise account for the disposition of the drug.

21 **Patient C**

22 e. On May 4, 2006, at 1519 hours, Respondent withdrew 2 tablets of
23 hydrocodone 5/500 from the Pyxis System for this patient; however, Respondent failed to chart
24 the administration or wastage of any portion of the hydrocodone in the patient or hospital record
25 or otherwise account for the disposition of the drug.

26 **Patient D**

27 f. On May 10, 2006, at 0811 hours, Respondent withdrew 2 mg of
28 hydromorphone from the Pyxis System when there was no physician's order for this drug.

1 Respondent failed to chart the wastage of the hydromorphone in the patient or hospital record or
2 otherwise account for the disposition of the drug.

3 g. On May 10, 2006, at 1234 hours, Respondent withdrew 2 tablets of
4 oxycodone 5/325 from the Pyxis System for this patient; however, Respondent failed to chart the
5 administration or wastage of any portion of the oxycodone in the patient or hospital record or
6 otherwise account for the disposition of the drug.

7 **Patient E**

8 h. On May 4, 2006, at 2009 hours, Respondent withdrew 2 mg of
9 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
10 administration or wastage of any portion of the hydromorphone in the patient or hospital record
11 or otherwise account for the disposition of the drug.

12 i. On May 12, 2006, at 1402 hours, Respondent withdrew a 50 mcg Fentanyl
13 patch from the Pyxis System for this patient; however, Respondent failed to chart the
14 administration or wastage of the Fentanyl patch in the patient or hospital record or otherwise
15 account for the disposition of the drug.

16 j. On May 12, 2006, at 1536 hours, Respondent withdrew 2 mg of
17 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
18 administration or wastage of any portion of the hydromorphone in the patient or hospital record
19 or otherwise account for the disposition of the drug.

20 **Patient F**

21 k. On April 24, 2006, at 1125 hours, Respondent withdrew 10 mg of
22 morphine from the Pyxis System for this patient; however, Respondent failed to chart the
23 administration or wastage of any portion of the morphine in the patient or hospital record or
24 otherwise account for the disposition of the drug.

25 **Patient G**

26 l. On May 1, 2006, at 1408 hours, Respondent withdrew 10 mg of morphine
27 from the Pyxis System for this patient; however, Respondent failed to chart the administration or

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1 wastage of any portion of the morphine in the patient or hospital record or otherwise account for
2 the disposition of the drug.

3 **Patient H**

4 m. On May 4, 2006, at 0954 hours, Respondent withdrew 2 mg of
5 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
6 administration or wastage of any portion of the hydromorphone in the patient or hospital record
7 or otherwise account for the disposition of the drug.

8 **Patient I**

9 n. On April 27, 2006, at 1749 hours, Respondent withdrew 2 mg of
10 lorazepam from the Pyxis System for this patient; however, Respondent failed to chart the
11 administration or wastage of any portion of the lorazepam in the patient or hospital record or
12 otherwise account for the disposition of the drug.

13 **Patient J**

14 o. On May 4, 2006, at 1452 hours, Respondent withdrew 2 mg of
15 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
16 administration or wastage of any portion of the hydromorphone in the patient or hospital record
17 or otherwise account for the disposition of the drug.

18 **Patient K**

19 p. On May 14, 2006, at 2359 hours, Respondent withdrew 2 mg of
20 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
21 administration or wastage of any portion of the hydromorphone in the patient or hospital record
22 or otherwise account for the disposition of the drug.

23 q. On May 16, 2006, at 1254 hours, Respondent withdrew 2 mg of
24 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
25 administration or wastage of any portion of the hydromorphone in the patient or hospital record
26 or otherwise account for the disposition of the drug.

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1 **Patient L**

2 r. On April 26, 2006, at 1304 hours, Respondent withdrew 10 mg of
3 morphine from the Pyxis System for this patient, charted the administration of 4 mg of morphine
4 in the nursing notes; however, Respondent failed to chart the administration or wastage of the
5 remaining 6 mg of morphine in the patient or hospital record or otherwise account for the
6 disposition of the drug.

7 **Patient M**

8 s. On May 15, 2006, at 0047 hours, Respondent withdrew 2 mg of
9 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
10 administration or wastage of any portion of the hydromorphone in the patient or hospital record
11 or otherwise account for the disposition of the drug.

12 **Patient N**

13 t. On April 17, 2006, at 2024 hours, Respondent withdrew 2 mg of
14 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
15 administration or wastage of any portion of the hydromorphone in the patient or hospital record
16 or otherwise account for the disposition of the drug.

17 **Patient O**

18 u. On April 24, 2006, at 2042 hours, Respondent withdrew 2 mg of
19 hydromorphone from the Pyxis System for this patient; however, Respondent failed to chart the
20 administration or wastage of any portion of the hydromorphone in the patient or hospital record
21 or otherwise account for the disposition of the drug.

22 **Patient P**

23 v. On May 5, 2006, at 1856 hours, Respondent withdrew 2 mg of
24 hydromorphone from the Pyxis System when there was no physician's order for this drug.
25 Respondent failed to chart the wastage of the hydromorphone in the patient or hospital record or
26 otherwise account for the disposition of the drug.

27 w. On May 11, 2006, at 1832 hours, Respondent withdrew 10 mg of
28 Diazepam from the Pyxis System for this patient; however, Respondent failed to chart the

1 administration or wastage of the Diazepam in the patient or hospital record or otherwise account
2 for the disposition of the drug.

3 x. On May 11, 2006, at 1833 hours, Respondent withdrew 2 mg of
4 hydromorphone from the Pyxis System when there was no physician's order for the drug for this
5 patient. Respondent failed to chart the wastage of the hydromorphone in the patient or hospital
6 record or otherwise account for the disposition of the drug.

7 **Patient Q**

8 y. On May 7, 2006, at 0848 hours, Respondent withdrew 2 mg of
9 hydromorphone from the Pyxis System when there was no physician's order for the drug for this
10 patient. Respondent failed to chart the wastage of the hydromorphone in the patient or hospital
11 record or otherwise account for the disposition of the drug.

12 **Patient R**

13 z. On May 1, 2006, at 1219 hours, Respondent withdrew 2 tablets of
14 hydrocodone 5/500 from the Pyxis System for this patient; however, Respondent failed to chart
15 the administration or wastage of any portion of the hydrocodone in the patient or hospital record
16 or otherwise account for the disposition of the drug.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(Obtained and Possessed Controlled Substances in Violation of Law at Massachusetts**
19 **General Hospital)**

20 23. Respondent is subject to discipline under Code section 2762(a) in that
21 Respondent, by her own admission in the Consent Agreement (Exhibit A), obtained or possessed
22 controlled substances in violation of law, in that in or about June 2005, while employed as a
23 registered nurse by American Mobile Healthcare and on duty at Massachusetts General Hospital,
24 Boston, Massachusetts, Respondent obtained controlled substances by fraud, deceit,
25 misrepresentation or subterfuge by taking the drugs from hospital supplies in violation of Health
26 and Safety Code section 11173(a) and Code section 4060.

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SEVENTH CAUSE FOR DISCIPLINE

(Obtained and Possessed Controlled Substances in Violation of Law at Sharp Memorial)

24. Respondent is subject to discipline under Code section 2762(a) in that Respondent obtained or possessed controlled substances in violation of law in that between April 17, 2006 and May 16, 2006, while on duty as a registered nurse at Sharp Memorial Hospital, San Diego, California. Respondent obtained the controlled substances hydromorphone, morphine, hydrocodone, oxycodone, Fentanyl, lorazepam, and diazepam by fraud, deceit, misrepresentation or subterfuge by taking the drugs from hospital supplies in violation of Health and Safety Code section 11173, subdivision (a), as more fully set forth in paragraph 21, above.

EIGHTH CAUSE FOR DISCIPLINE

(Obtained and Possessed Controlled Substances in Violation of Law at UMass Memorial Medical Center)

25. Respondent is subject to discipline under Code section 2762(a) in that Respondent, by her own admission in the Consent Agreement (Exhibit A), obtained or possessed controlled substances in violation of law in that between February and March 2007, while employed as a registry nurse by Health Source Global Staffing, San Francisco, California and assigned to work at UMass Memorial Medical Center, Worchester, Massachusetts, Respondent obtained and possessed controlled substances by fraud, deceit, misrepresentation or subterfuge by taking the drugs from hospital supplies in violation of Health and Safety Code section 11173, subdivision (a) and Code section 4060.

NINTH CAUSE FOR DISCIPLINE

(Obtained or Possessed Controlled Substances in Violation of Law at Long Beach Memorial)

26. Respondent is subject to discipline under Code section 2762(a) in that Respondent obtained or possessed controlled substances in violation of law while employed as a registry nurse by MedStaff Healthcare Solutions and assigned to work at Long Beach Memorial Hospital between April 16, 2007 and June 27, 2007.

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1 27. On June 27, 2007, F.D., the RN Assistant Unit Manager at Long Beach
2 Memorial Hospital noticed that Respondent withdrew Dilaudid from the Pyxis machine for a
3 patient who did not have Dilaudid ordered. Later that day, F.D. observed that Respondent
4 withdrew Dilaudid, and other drugs, for a different patient, again without physician's orders for
5 Dilaudid. Further investigation revealed that 12 Dilaudid carpoujects were removed from the
6 Pyxis machine by Respondent that morning without physicians orders. The patient charts for the
7 three patients for whom Respondent claimed she withdrew Dilaudid did not show that Dilaudid
8 was administered.

9 28. C.J., the RN Assistant Unit Manager, reported that there was a recent
10 change in Respondent's behavior. She was "fidgety" and "twitchy", constantly moving her
11 shoulders and taking her hair clip out and putting it back in. She exhibited rapid speech one
12 moment and then a few hours later, her speech became slow, and almost slurred.

13 29. When confronted by F.D. and C.J. about her behavior and multiple
14 Dilaudid withdrawals, Respondent explained that she was under a lot of stress, that her commute
15 was difficult and that her father was ill. She explained that she withdrew Dilaudid in
16 anticipation of procedures for the three patients but the procedures did not proceed so she wasted
17 the Dilaudid. She denied a drug problem and refused help to access the Board's Diversion
18 Program. Respondent was asked not to return to her assignment.

19 30. A subsequent investigation on June 28, 2007 revealed that Respondent
20 withdrew 518 schedule II drugs from April 16, 2007 until June 27, 2007. Out of 2,331 people
21 who withdrew drugs from the Pyxis machine, Respondent withdrew the most. The mean was 27
22 withdrawals. The Pyxis reports showed that Respondent withdrew schedule II controlled
23 substances when she was not scheduled to be on duty and without a patient assignment.

24 TENTH CAUSE FOR DISCIPLINE

25 (Possessed Controlled Substances in Violation of Law at UCLA)

26 31. Respondent is subject to discipline under Code section 2762(a) in that on
27 September 29, 2007, Respondent was arrested by the UCLA Police for possession of controlled
28 substances in violation of Health and Safety Code section 11350.

1 32. The circumstances that led to Respondent's arrest are that between
2 September 25th through September 29th, Respondent was employed by HRN Services, Inc. and
3 was working at UCLA Medical Center, Los Angeles, California as a temporary nurse. On
4 September 28, 2007, P.G., a registered nurse on duty, found a vial of Dilaudid in a plastic sleeve
5 in a basket near a hospital bed where Respondent was working the previous night. Later that
6 day, P.G. saw Respondent at the Pyxis machine with three glass vials of Dilaudid in her hand
7 between her fingers, similar to the way a cigarette would be held. Because it was unusual for a
8 registered nurse to be removing multiple vials of narcotics at one time, P.G. notified B.M., the
9 Unit Director for the Department of Operating Room Services at UCLA,

10 33. On September 29, 2007, C.D., the charge nurse at the Border Care Unit
11 saw Respondent standing by the Pyxis machine holding two vials of an unknown narcotic after
12 the end of her shift. When C.D. asked Respondent what she was still doing there, Respondent
13 stated she was waiting to give a patient report to another nurse. When asked why she was
14 getting drugs, Respondent stated she was helping another nurse and walked away. B.M. was
15 informed that Respondent was acting suspiciously and was loitering around the Pyxis machine
16 after the end of her shift. When, B.M. approached Respondent, Respondent immediately said, "I
17 didn't steal any medications." Respondent's speech was slurred and she appeared dazed. B.M.
18 and C.D. detained Respondent until the UCLA Police arrived.

19 34. During Respondent's interview with the UCLA Police, she admitted she
20 had taken Dilaudid from the Pyxis machine for a patient; the Dilaudid had been ordered for the
21 patient but not yet prescribed and put on the chart. However, she denied having any drugs in her
22 possession. Respondent admitted later that she had Dilaudid in her bag. The officer searched
23 Respondent's bag and found four tubes of hydromorphone, a Temazepam capsule, a used syringe
24 and an empty hydromorphone tube. Respondent stated she was not addicted to drugs and she did
25 not know why she took them. Respondent was arrested on September 29, 2007 for possession of
26 a controlled substance.

27 35. The police officers conducted a search of Respondent's vehicle after
28 receiving her consent. They found six hydrocodone bitartrate tablets, two oxycodone

1 acetaminophen tablets, one hydromorphone injection syringe, one hydromorphone injection vial,
2 three hydromorphone injection tubes, one Demerol injection tube and four used hydromorphone
3 tubes. The officers also searched a red bag in the back seat of Respondent's vehicle and found
4 one used hydromorphone injection tube and two empty glass vials.

5 36. B.M. and C.D., the nurses at UCLA, subsequently conducted an audit of
6 the Pyxis machine. They discovered that during the four days Respondent was at UCLA, she
7 made 42 medication withdrawals from Pyxis, significantly higher than average. The average
8 number of withdrawals from the Pyxis machine by an employee in Respondent's position was 3-
9 4 withdrawals per shift.

10 37. On April 31, 2007, a Felony Complaint was filed against Respondent for
11 the possession of a controlled substance in violation of Health and Safety Code section 11350(a)
12 in the matter of *People v. Kristi Laura Hutto*, Los Angeles County Superior Court Case No.
13 SA063445. A warrant for the Respondent's arrest was ordered on May 2, 2007.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein
16 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

17 1. Revoking or suspending Registered Nurse License Number 637926,
18 issued to Kristi Laura Hutto;

19 2. Ordering Kristi Laura Hutto to pay the Board of Registered Nursing the
20 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
21 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: 4/28/09

Ruth Ann Terry

RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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